SENATOR THE HON. GARETH EVANS Q.C.

MINISTER FOR FOREIGN AFFAIRS AND TRADE
PARLIAMENT HOUSE
CANBERRA A.C.T. 2600

11 MAY 1990

Lord Avebury
Parliamentarians for East Timor
244A Upper Street
LONDON N1 1RU
UNITED KINGDOM

Dear Lord Avebury,

Thank you for your letter dated 4 April 1990 in which you ask why the Australian Government has accepted Indonesian sovereignty over East Timor when it has rejected the USSR claim to sovereignty over the Baltic States.

I would put it to you that the two situations are quite different. In the case of the Baltic States, the three entities involved - Lithuania, Latvia and Estonia - were independent States, and recognised as such by many States, including Australia, before their forcible incorporation into the Soviet Union in 1940. East Timor, by contrast, has never had the attributes of Statehood.

I might add that the view put by you that international law does not allow States to acquire a valid title, merely by the lapse of time, to territory forcibly annexed, is not an entirely accurate reflection of the legal position. At the very least, it could be said that international law on this point is in a state of evolution.

You will be aware that many leading international legal commentators - and a significant body of State practice in the past thirty years, including within the UN system - would tend to support the view that, despite flaws in the original means of acquisition of territory, subsequent effective control by the annexing power over that territory may indeed confer a good title. In some cases (e.g. the Falklands), the length of time in which this effective control is exercised may be considerable. In others (e.g. Goa, Irian Jaya, and affirmed by the International Court of Justice in its advisory opinion on the Western Sahara in 1975), the time frame may be short but control over the territory may nevertheless be judged to be effective against other claimants to title.

Within the United Nations' context, the Government supports the efforts of the United Nations' Secretary-General to assist Portugal and Indonesia to achieve agreement on East Timor taking account of the interests of all parties involved. The Government welcomed the resumption of discussions between

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Portugal and Indonesia on 9 May 1989 under the auspices UN Secretary-General to work out the terms of reference, timing and other aspects of a proposed Portuguese Parliamentary visit to East Timor. The Australian Government is hopeful that such a visit and the resumed dialogue between Portugal and Indonesia will make a positive contribution to efforts to find a comprehensive and internationally acceptable solution to the East Timor issue.

Your letter raises concerns about the rights of the people of East Timor. Australia supports the universal observance of internationally accepted standards of human rights and regularly raises human rights issues in a wide range of countries, including Indonesia. In this regard, the Government maintains a close interest in developments in East Timor and has, over the years, continued to raise questions on human rights in the province, and to seek free access to the province for the media, international organisations and aid workers. I raised these issues with senior Indonesian Ministers on several occasions during 1989, and again with Indonesian Foreign Minister Alatas in February 1990. The Australian Embassy in Jakarta investigated the specific incidents to which you refer, and the Australian Ambassador expressed his concern over these matters to senior military officials.

Yours sincerely

GARETH EVANS